



2. By this pleading, the Fulton County Defendants now join in this request, as there are a number of time-sensitive issues to be addressed.

3. This action has been pending in this Court since August 8, 2017 (Notice of Removal with Complaint; Doc. 1).

4. This case was administratively closed on November 30, 2017 (Doc. 117). Plaintiffs were given until April 2, 2018 to obtain new counsel (Doc. 144).

5. Plaintiffs' prior counsel in this case placed a litigation hold on Fulton County Registration and Elections Direct Recording Electronic (DRE) voting equipment and media inventory that was used in the elections held in April and June of 2017, which requires the County to segregate the DRE voting equipment. (Affidavit of Richard Barron, attached hereto as Exhibit "1", at ¶ 4).

6. As a result, a considerable amount of limited warehouse floor space is being consumed to comply with this legal hold. The limited space available is further exacerbated by the manufacturer's restriction on how many voting machines can be stacked upon one another. This is difficult and challenging when the department is preparing and staging bulk equipment and supplies for delivery to more than 200 plus polling locations. This same difficulty and challenge is exacerbated during post-election operations associated with the recovery and service of DRE election equipment and supplies. (Barron Affidavit, ¶ 5).

7. This legal hold significantly limits Fulton County's ability to perform rotation of election equipment and media. It has been a long standing and necessary practice to lengthen the life cycle of vintage election equipment by balancing equipment usage. This legal hold prevents the Department from placing its full inventory into the rotation to accommodate that usage practice. (Barron Affidavit, ¶ 6).

8. Fulton County has been unable to conduct serviceability checks or preventative maintenance on the sequestered voting equipment and media since April and June of 2017. Required servicing and quarterly charging of each DRE has been foregone for almost one year. This could result in significant expense to the County to replace the affected DRE voting equipment batteries for which an electrical charge has not been applied in more than 10 months. There is currently no budget to replace the batteries under this legal hold, which would cost \$30,000 - \$35,000. (Barron Affidavit, ¶ 7).

9. The DRE software and parts are proprietary. The only source for DRE parts and maintenance is located in Texas. This translates to additional time for the protective packaging and transport of defective DRE voting equipment to the vendor's maintenance facility. Once repairs are completed by the vendor, any DRE shipped to the vendor must pass acceptance testing by technical

representatives at the Center for Election Systems (CES) before being returned to Fulton County. (Barron Affidavit, ¶ 8).

10. Fulton County has sixteen (16) employees tasked with performing all serviceability tests and maintenance tasks on its DREs. Ninety Four percent (94%) of the staff that are trained, experienced and authorized to perform service and maintenance functions are temporary seasonal employees. These temporary seasonal employees' period of active employment with Fulton County is solely dependent upon the prior programming and allocation of funds during the annual budget process. The sun has already set on the budgets for the April and June 2017 elections for the equipment under this legal hold. When and if this voting equipment is released from the legal hold, additional funding will be needed to extend the applicable temporary staff period of duty to perform the required maintenance and service related tasks on this equipment. The County has no funding source in our current budget year to accommodate this. (Barron Affidavit, ¶ 9).

11. The legal hold on the election media (DREs and Optical Scan) has significantly reduced the County's available inventory. Fulton County's voting population constantly increases making it necessary to deploy more DREs and Optical Scanners and media. Because of the dated technology, both media (DREs

and OS) items are prone to become corrupt and defective from normal use. The County's reserves of election media that would be available and typically used is now tied up in the legal hold. With major elections in 2018, the purchasing of additional media to offset the legal hold would cost \$229,000.00 for each DRE and \$700.00 for each OS. This is a major expense for which the County has no budget if the media begin to undergo corruption. (Barron Affidavit, ¶ 10).

12. There are approaching elections for which this equipment is needed. The resultant inability to provide sufficient voting equipment could disastrously impact Fulton County election operations and the ability of Fulton County electors to participate in elections in 2018. (Barron Affidavit, ¶ 4)

13. Due to the delay in the resolution of this matter and the continued hardship placed on Fulton County's elections operation, the Fulton County Defendants request a telephone status conference to address this issue.

Respectfully submitted this 11th day of April, 2018.

**OFFICE OF THE COUNTY  
ATTORNEY**

/s/David R. Lowman

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**CERTIFICATE OF SERVICE**

I hereby certify that on this date I have electronically filed the foregoing **REQUEST FOR STATUS CONFERENCE** with the Clerk of Court using the CM/ECF system, with the Clerk of Court using the CM/ECF system, which will send email notification of such filing to all attorneys of record.

This 11th day of April, 2018.

**/s/ David R. Lowman**

Georgia Bar Number: 460298

david.lowman@fultoncountyga.gov

# EXHIBIT 1



Elections.

4.

The legal hold that Plaintiffs' prior counsel has placed on Fulton County Registration and Elections Direct Recording Electronic (DRE) voting equipment and media inventory from last April and June will adversely impact the Fulton County Registration and Elections Department's ability to perform its mission of providing election services for registered voters in Fulton County going forward.

5.

This legal hold requires the County to segregate the DRE voting equipment. As a result, a considerable amount of limited warehouse floor space is being consumed to comply with this order. The limited space available is further exacerbated by the manufacturer's restriction on how many voting machines can be stacked upon one another. This is difficult and challenging when the department is preparing and staging bulk equipment and supplies for delivery to more than 200 plus polling locations. This same difficulty and challenge is exacerbated during post-election operations associated with the recovery and service of DRE election equipment and supplies.

6.

This legal hold significantly limits Fulton County's ability to perform

rotation of election equipment and media. It has been a long standing and necessary practice to lengthen the life cycle of vintage election equipment by balancing equipment usage. This legal hold prevents the Department from placing its full inventory into the rotation to accommodate that usage policy.

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Fulton County has been unable to conduct serviceability checks or preventative maintenance on the sequestered voting equipment and media since April and June of 2017. Required servicing and quarterly charging of each DRE has been foregone for almost one year. This could result in significant expense to the County to replace the affected DRE voting equipment batteries for which an electrical charge has not been applied in more than 10 months. There is currently no budget to replace the batteries under this legal hold, which would cost \$30,000 - \$35,000.

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The DRE software and parts are proprietary. The only source for DRE parts and maintenance is located in Texas. This translates to additional time for the protective packaging and transport of defective DRE voting equipment to the vendor's maintenance facility. Once repairs are completed by the vendor, any DRE shipped to the vendor must pass acceptance testing by technical representatives at the Center for Election Systems (CES) before being returned to Fulton County.

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Fulton County has sixteen (16) employees tasked with performing all serviceability tests and maintenance tasks on its DREs. Ninety Four percent (94%) of the staff that are trained, experienced and authorized to perform service and maintenance functions are temporary seasonal employees. These temporary seasonal employees' period of active employment with Fulton County is solely dependent upon the prior programming and allocation of funds during the annual budget process. The sun has already set on the budgets for the April and June 2017 elections for the equipment under this legal hold. When and if this voting equipment is released from the legal hold, additional funding will be needed to extend the applicable temporary staff period of duty to perform the required maintenance and service related tasks on this equipment. The County has no funding source in our current budget year to accommodate this.

10.

The legal hold on the election media (DREs and Optical Scan) has significantly reduced our available inventory. Fulton County's voting population constantly increases making it necessary to deploy more DREs and OSs and media. Because of the dated technology, both media (DREs and OS) items are prone to become corrupt and defective from normal use. The County's reserves of election media that would be available and typically used is now tied up in the legal hold.

With major elections in 2018, the purchase of additional media to offset the legal hold would cost \$229,000.00 for each DRE and \$700.00 for each OS. This is a major expense for which the County has no budget if the media begin to undergo corruption.

FURTHER AFFIANT SAYETH NOT.

This 11<sup>th</sup> day of April, 2018.



Richard Barron, Director  
Fulton County Department of Registration  
and Elections

Sworn to and subscribed to by me  
this 11 day of April, 2018.

Breauna Jenkins  
Notary Public



My commission expires: April 7, 2020